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JOHN A. SMART
708 BLOSSOM HILL RD., #201
LOS GATOS, CA 95032

EXAMINER
SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/945,130	KUCHERAWY, MURRAY
		Examiner	Art Unit	
		Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 April 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-53* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050401</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1.   The listing of references in Applicant's submitted remarks is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. Since Applicant has stated references that are now on the official legal record, they should be listed in a proper information disclosure statement to ensure completeness of the legal record. The submission of non-patent literature by Applicant of "general material merely offered to assist the Examiner in understanding the differences between the well-known concepts of threads and processes", even though "the article is _not_ intended to be an Information Disclosure Statement", necessitates that said non-patent literature be officially entered into the legal record by use of an Information Disclosure Statement.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3.   Claims 2, 3, 5, 8, 11, 14, 15, 29, 42-46 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.   **Claims 2, 3, 5, 8, 11, 14, 15, 29, 42-46, 53** refer to "a desired period of time." A desired period of time is an indefinite limitation. It would cause one of ordinary skill in the networking art undue experimentation to implement the invention because of the unknown quantity of "a desired period of time".

For purposes of compact prosecution, "a desired period of time" will be treated as occurring over any

period of time.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for

the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

5.   **Claims 1, 16-17, 21-22, 25, 27-28, 31-34, 41, 47-48 and 50-53** rejected under 35 U.S.C. 102(e)

as being anticipated by Srivastava et al. (U.S. Patent No. 6,374,292).

6.   Regarding **claim 1**, Srivastava discloses a *method for processing an incoming e-mail message*

that is being received from another domain, the method comprising: receiving at a first process a request

from a particular domain to establish a new connection for transmitting a particular e-mail message to the

e-mail system; in response to receipt of said request from the particular domain, creating a second

process for handling the request to establish a new connection, said second process being connected to

a flow control filter providing filtering on a per-domain basis; comparing the request from the particular

domain against configurable policy rules; and denying the request if any of said policy rules would be

violated. [Srivastava discloses using a process to define a particular domain in an email server. An

individual domain can be configured to allow all mail to be received if the state of the domain is active

(*establish a new connection*) or if the state of the domain is inactive the domain is suspended from routing

mail (*denying the request*). See Srivastava, column 7, lines 36-59. Srivastava further discusses using a

multithreaded process, with each thread handling a connection. Examiner considers this to be equivalent

to creating a second process for handling a new connection. Srivastava further states that using a single multithreaded process is beneficial by maximizing performance and stability and by minimizing system resource usage. See Srivastava, column 5, lines 9-15.] By this rationale **claim 1** is rejected.

7.   Regarding **claim 16**, Srivastava is applied as in claim 1. Srivastava further discloses the *first process comprises a mail transport agent (MTA) process.* [Srivastava states that the invention includes an Internet mail server with an included transfer unit (*MTA*). The transfer unit is coupled to the message store. Access to the message store is through a multithreaded process. See Srivastava, column 4, lines 25-43. See Srivastava, column 5, lines 9-15.] By this rationale **claim 16** is rejected.

8.   Regarding **claim 17**, Srivastava is applied as in claim 1. Srivastava further discloses the *second process comprises a child mail transport agent (MTA) process.* [Srivastava states that the invention includes an Internet mail server with an included transfer unit (*MTA*). The transfer unit is coupled to the message store. Access to the message store is through a multithreaded process. See Srivastava, column 4, lines 25-43. See Srivastava, column 5, lines 9-15. Srivastava's multithreaded process accomplishes the same function as a parent process and a child process. See rejection for claim 1.] By this rationale **claim 17** is rejected.

9.   Regarding **claim 20**, Srivastava is applied as in claim 1. Srivastava further discloses *creating a multitude of new processes for handling multiple requests to establish new connections, each new process being connected to said flow control filter providing filtering on a per-domain basis.* [Srivastava discusses using multiple threads in a single process, with each thread handling a new connection. See Srivastava, column 5, lines 9-15. See rejection for claim 1.] By this rationale **claim 20** is rejected.

10.   Regarding **claim 21**, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is also used to reject claim 21. By this rationale **claim 21** is rejected.

11.   Regarding **claim 22**, the limitations of this claim are substantially the same as the limitations of claims 16 and 17. Therefore the rationale used to reject claims 16 and 17 is also used to reject claim 22. By this rationale **claim 22** is rejected.

12.   Regarding **claim 25**, Srivastava is applied as in claim 21. Srivastava further discloses the *set of rules comprises a configurable set of rules.* [Srivastava discloses a postmaster configuring the transport unit with configuration data in a configuration table. Examiner defines this as a *configurable set of rules.* See Srivastava, column 6, lines 26-37.] By this rationale **claim 25** is rejected.

13.   Regarding **claim 27**, Srivastava is applied as in claim 21. Srivastava further discloses *user-created class definitions specifying different classes of domains.* [Srivastava discloses transfer unit channels (*user-created class definitions*) that implement specific combinations of transports and protocols and what destination addresses (*different classes of domains*) should be routed through what sorts of channels. See Srivastava, column 6, lines 22-30.] By this rationale **claim 27** is rejected.

14.   Regarding **claim 28**, Srivastava is applied as in claim 27. Srivastava further discloses *each said class definition includes a domain name corresponding to a particular domain that is to be monitored for filtering.* [Srivastava discloses the transfer unit channels include destination address (*different classes of domains*). See Srivastava, column 6, lines 22-30.] By this rationale **claim 28** is rejected.

15.   Regarding **claim 31**, Srivastava is applied as in claim 21. Srivastava further discloses *a given domain is not filtered if a corresponding rule has not been created for that given domain.* [Srivastava discloses that if the domain set of user services is a null set, the allowed set of user level services is defined as the set of domain services. Examiner defines this as: if no rule exists for the domain, process as normal and do not filter. See Srivastava, column 7, line 60 – column 8, line 13.] By this rationale **claim 31** is rejected.

16.   Regarding **claim 32**, Srivastava is applied as in claim 21. Srivastava further discloses *said flow control filter denies a given domain's request for a new connection if any of said rules would be violated by granting the request.* [Srivastava discloses that the requested service is not a member of the set of allowed user level services (*violating a rule by granting the request*) an error flag is thrown (*denying a request for a new connection*). See Srivastava, column 8, lines 10-13.] By this rationale **claim 32** is rejected.

17.   Regarding **claim 33**, Srivastava is applied as in claim 21. Srivastava further discloses *requests for transmitting e-mail messages comprise SMTP (Simple Mail Transport Protocol) commands submitted*

to the e-mail system from different domains. [Srivastava discloses an e-mail server that can support

multiple domains. See Srivastava, column 4, lines 10-15. E-mail message can come to the transport unit

by way of a SMTP message. See Srivastava, column 6, lines 13-19.] By this rationale **claim 33** is

rejected.

18.   Regarding **claim 34**, Srivastava is applied as in claim 33. Srivastava further discloses *flow*

control filter processes said SMTP commands received from different domains to ascertain whether any

of said rules would be violated. [Srivastava discloses a transfer unit receiving a message via SMTP. See

Srivastava, column 7, lines 5-8. The SMTP header is read to see if the message address is within the

server domain (*processing said SMTP commands*). If the message is within the server domain, the

message is filtered according to domain rules. See Srivastava, column 7, line 60 – column 8, line 13.] By

this rationale **claim 34** is rejected.

19.   Regarding **claim 41**, the limitations of this claim are substantially the same as the limitations of

claim 1. Therefore the rationale used to reject claim 1 is also used to reject claim 41. By this rationale

claim 41 is rejected.

20.   Regarding **claim 47**, the limitations of this claim are substantially the same as the limitations of

claim 32. Therefore the rationale used to reject claim 32 is used to reject claim 47. By this rationale

claim 47 is rejected.

21.   Regarding **claim 48**, Srivastava is applied as in claim 47. Srivastava further discloses *returning*

an error code indicating why the request is denied. [Srivastava discloses when a requested service is not

allowed (*request is denied*) an error flag is thrown (*returning an error code*).] By this rationale **claim 48** is

rejected.

22.   Regarding **claim 50**, Srivastava is applied as in claim 41. Srivastava further discloses *portions of*

a given e-mail message include sender information, recipient information, and message body data.

[Srivastava discloses forwarding message headers, which include sender information and recipient

information. See Srivastava, column 6, lines 50-55. The purpose of Srivastava's teaching is forwarding

messages. Forwarding messages includes forwarding message body data. See Srivastava, column 4,

lines 25-43.] By this rationale **claim 50** is rejected.

23.   Regarding **claim 51**, the limitations of this claim are substantially the same as the limitations of claim 25. Therefore the rationale used to reject claim 25 is also used to reject claim 51. By this rationale **claim 51** is rejected.

24.   Regarding **claim 52**, Srivastava is applied as in claim 41. Srivastava further discloses *policy rules comprise user-edited rules created for different domains.* [Srivastava discloses a postmaster (*user*) configuring (*editing*) different channels with configuration data stored in a configuration table (*rules created for different domains*). See Srivastava, column 6, lines 22-41.] By this rationale **claim 52** is rejected.

25.   Regarding **claim 53**, Srivastava is applied as in claim 52. Srivastava further discloses *each user-edited rule comprises a host class definition specifying a particular domain and corresponding limits to be applied against that domain over a given period of time.* [Srivastava has defined user-edited rules for particular domains. See rejection for claim 52.] By this rationale **claim 53** is rejected.

Claim Rejections - 35 USC § 103

26.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

27.   **Claims 6, 12, 14, 29-30 and 46** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Spam! (Cranor and LaMacchia, Communications of the ACM, August 1998).

28.   Regarding **claim 6**, Srivastava is applied as in claim 1. Srivastava fails to disclose *permitting the requested connection; receiving sender information about the particular e-mail message from the particular domain; comparing the sender information from the particular domain against said configurable policy rules; and blocking receipt of the incoming e-mail message if any of said policy rules would be violated* (blocking an e-mail message based upon the sender).

29.   However, Spam! discloses filtering e-mail from known spam senders based on information in message headers. [See Spam!, page 78.]

30.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava and Spam! for the purpose of filtering suspected spam messages to prevent a burden on ISP systems. [See Spam!, page 78. See Spam!, page 74.] Srivastava gives motivation for the combination by stating that the mail server is suited for applications requiring highly reliable, scalable, and efficient information transport. [See Srivastava, column 4, lines 20-25.] By this rationale **claim 6** is rejected.

31.   Regarding **claim 12**, Srivastava is applied as in claim 1. Srivastava fails to disclose *permitting the requested connection; receiving e-mail message body data about the particular e-mail message from the particular domain; comparing the e-mail message body data from the particular domain against said configurable policy rules; and blocking receipt of the incoming e-mail message if any of said policy rules would be violated* (blocking an e-mail message based on the content in the body).

32.   However, Spam! discloses identifying spam based on information within the body of an email message. Spam! gives this as a filtering solution to reduce the amount of spam. [See Spam!, page 78.]

33.   The motivation for this combination is the same as the motivation in claim 6. By this rationale **claim 12** is rejected.

34.   Regarding **claim 14**, Srivastava and Spam! are applied as in claim 12. Spam! further discloses that *configurable policy rules specify a maximum aggregate volume of e-mail permitted by a given domain over a period of time.* [Spam! discloses that filtering can be performed on outbound and inbound messages. Spam! further discloses that limits can be placed on the number of outbound messages a subscriber can send. See Spam!, page 79. It is Examiner's position that since the limitation on number of messages can be applied as an outbound filter, that the limitation can also be an inbound filter on messages.] By this rationale **claim 14** is rejected.

35.   Regarding **claim 29**, Srivastava is applied as in claim 27. Srivastava fails to disclose *each class definition includes limits that a particular domain must adhere to over a given period of time.*

36.   However, Spam! discloses that limits can be placed on a domain. [Spam! discloses that filtering can be performed on outbound and inbound messages. Spam! further discloses that limits can be placed on the number of outbound messages a subscriber can send. See Spam!, page 79. It is Examiner's position that since the limitation on number of messages can be applied as an outbound filter, that the limitation can also be an inbound filter on messages.]

37.   The motivation for the aforementioned combination of teachings is the same motivation applied to claim 6. By this rationale **claim 29** is rejected.

38.   Regarding **claim 30**, Srivastava and Spam! are applied as in claim 29. Spam further discloses that domain *limits include selected ones of: maximum number of different senders, maximum number of different recipients, maximum number of connections, maximum number of envelopes, and maximum aggregate volume of mail.* [Spam! discloses limits can be placed on the number of messages a subscriber can send. See rejection for claim 29.] By this rationale **claim 30** is rejected.

39.   Regarding **claim 46**, the limitations of this claim are substantially the same as the limitations of claim 14. Therefore the rationale used to reject claim 14 is used to reject claim 46. By this rationale **claim 46** is rejected.

40.   **Claim 35** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and RFC 821: Simple Mail Transfer Protocol (Jonathan B. Postel, ftp://ftp.rfc-editor.org/in-notes/rfc821.txt).

41.   Regarding **claim 35**, Srivastava is applied as in claim 34. Srivastava fails to disclose a *SMTP "MAIL FROM" command specifying sender information for a given e-mail message.*

42.   However, RFC 821 discloses the source of the message being transmitted (*sender information*). [See RFC 821, The SMTP Procedures.]

43.   It would be obvious for one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava and RFC 821 for the purpose of relaying mail between networks. [See RFC 821, Introduction.] Srivastava gives motivation for the combination of the teachings by stating that a message can be relayed using SMTP. [See Srivastava, column 6, lines 9-21.] By this rationale **claim 35** is rejected.

44.   **Claims 7, 13, 36, 39-40** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava

and Spam! as applied to claim 6 above, and further in view of RFC 821.

45.   Regarding **claim 7**, Srivastava and Spam! are applied as in claim 6. Srivastava and Spam! fail to

disclose *sender information is transmitted during a "MAIL FROM" phase of SMTP (Simple Mail Transport*

Protocol) processing.

46.   However, RFC 821 discloses the source of the message being transmitted (*sender information*).

[See RFC 821, The SMTP Procedures.]

47.   It would be obvious for one of ordinary skill in the networking art at the time of the invention to

combine the teachings of Srivastava, Spam!, and RFC 821 for the purpose of relaying mail between

networks. [See RFC 821, Introduction.] Srivastava gives motivation for the combination of the teachings

by stating that a message can be relayed using SMTP. [See Srivastava, column 6, lines 9-21.] By this

rationale **claim 7** is rejected.

48.   Regarding **claim 13**, Srivastava and Spam! are applied as in claim 12. Srivastava and Spam! fail

to disclose *said e-mail message body data is transmitted during a "DATA" phase of SMTP (Simple Mail*

Transport Protocol) processing.

49.   However, RFC 821 discloses the message text (*message body data*) is transmitted by using the

DATA command. [See RFC 821, The SMTP Procedures.]

50.   The motivation used to combine the aforementioned teachings is the same motivation applied to

claim 7. By this rationale **claim 13** is rejected.

51.   Regarding **claim 36**, Srivastava and RFC 821 are applied as in claim 35. Srivastava fails to

disclose *permitting the requested connection; receiving sender information about the particular e-mail*

message from the particular domain; comparing the sender information from the particular domain

against said configurable policy rules; and blocking receipt of the incoming e-mail message if any of said

policy rules would be violated (blocking an e-mail message based upon the sender).

52.   However, Spam! discloses filtering e-mail from known spam senders based on information in

message headers. [See Spam!, page 78.]

53.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava, RFC 821 and Spam! for the purpose of filtering suspected spam messages to prevent a burden on ISP systems. [See Spam!, page 78. See Spam!, page 74.] Srivastava gives motivation for the combination by stating that the mail server is suited for applications requiring highly reliable, scalable, and efficient information transport. [See Srivastava, column 4, lines 20-25.] By this rationale **claim 36** is rejected.

54.   Regarding **claim 39**, Srivastava and Spam! are applied as in claim 34. Srivastava and Spam! fail to disclose *said e-mail message body data is transmitted during a "DATA" phase of SMTP (Simple Mail Transport Protocol) processing.*

55.   However, RFC 821 discloses the message text (*message body data*) is transmitted by using the DATA command. [See RFC 821, The SMTP Procedures.]

56.   The motivation used to combine the aforementioned teachings is the same motivation applied to claim 7. By this rationale **claim 39** is rejected.

57.   Regarding **claim 40**, Srivastava, Spam! and RFC 821 are applied as in claim 39. Spam! further discloses identifying spam based on information within the body of an email message. Spam! gives this as a filtering solution to reduce the amount of spam. [See Spam!, page 78.] By this rationale **claim 40** is rejected.

58.   **Claim 26** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Apache HTTP Server Configuration Files
(http://web.archive.org/web/20010208104821/httpd.apache.org/docs/configuring.html. February 8, 2001).

59.   Regarding **claim 26**, Srivastava is applied as in claim 21. Srivastava fails to disclose the configuration file may be a text file.

60.   However, Apache HTTP Server Configuration Files discloses that a server configuration file may be a plain text file. [See Apache HTTP Server Configuration Files, Main Configuration Files.]

61.   It would be obvious to one of ordinary skill in the networking art to combine the teachings of Srivastava and Apache HTTP Server Configuration Files for the purpose of allowing changes to be made to the configuration files. [See Apache HTTP Server Configuration Files, Main Configuration Files.]

Srivastava gives motivation for the combination by stating that the postmaster configures the server for

proper filtering. [See Srivastava, column 6, lines 22-41.] Srivastava further states that the transfer unit

can utilize text files. [See Srivastava, column 6, lines 42-43.] By this rationale **claim 26** is rejected.

62.   **Claims 2, 42** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and

Mosberger et al. (U.S. Patent 6,438,597).

63.   Regarding **claim 2**, Srivastava is applied as in claim 1. Srivastava fails to disclose said

configurable policy rules specify a *maximum number of connections permitted by a given domain over a*

period of time.

64.   However, Mosberger discloses a connection management system for a data service system that

limits the number of connections permitted in the data service system. [See Mosberger, column 3, line 66

– column 4, line 2.] Mosberger states that the connections can be limited by type of connection and the

connections can be class-based (*used by a given domain*). [See Mosberger, column 4, lines 3-5.]

65.   It would be obvious to one of ordinary skill in the networking art to combine the teachings of

Srivastava and Mosberger for the purpose of operating an e-mail service with improved overload

behavior. [See Mosberger, column 3, lines 25-32. See Mosberger, column 4, lines 5-12.] Srivastava

gives motivation for the combination by stating that the mail server is suited for any application that

requires highly reliable, scalable, and efficient information transport. [See Srivastava, column 4, lines 21-

25.] By this rationale **claim 2** is rejected.

66.   Regarding **claim 3**, the limitations of this claim are substantially the same as the limitations of

claim 2. Therefore the rationale used to reject claim 2 is used to reject claim 3. By this rationale **claim 3**

is rejected.

67.   Regarding **claim 42**, the limitations of this claim are substantially the same as the limitations of

claim 2. Therefore the rationale used to reject claim 2 is used to reject claim 42. By this rationale **claim**

42 is rejected.

68.   **Claims 18-19 and 23-24** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava

and Ahmed et al. (U.S. Patent No. 6,704,772).

69.   Regarding **claim 18**, Srivastava is applied as in claim 1. Srivastava fails to disclose a *second process is created from said first process via a forking operation.*

70.   However, Ahmed discloses using forking to send multiple email messages. [See Ahmed, column 10, lines 21-62. It is Examiner's position that creating another email message to send is equivalent to creating a second process from a first process.]

71.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava and Ahmed for the purpose of reducing processing power and storage space. [See Ahmed, Abstract.] Srivastava gives motivation for the combination by stating that using multiple threads for processing maximizes performance and scalability. [See Srivastava, column 5, lines 9-15.] Ahmed is analogous art because it deals with email and utilizing threads. [See Ahmed, Title.] By this rationale **claim 18** is rejected.

72.   Regarding **claim 19**, Srivastava and Ahmed are applied as in claim 18. Ahmed further discloses the ability to see the initial message regardless of the forks. [See Ahmed, Figure 5.] Seeing the initial message regardless of the fork implies not altering the message for the fork, which is essentially the same as making a copy during a forking operation. By this rationale **claim 19** is rejected.

73.   Regarding **claim 23**, the limitations of this claim are substantially the same as the limitations of claim 18. Therefore the rationale used to reject claim 18 is also used to reject claim 23. By this rationale **claim 23** is rejected.

74.   Regarding **claim 24**, the limitations of this claim are substantially the same as the limitations of claim 19. Therefore the rationale used to reject claim 19 is also used to reject claim 24. By this rationale **claim 24** is rejected.

75.   **Claim 9** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Shaw et al. (U.S. Patent No. 6,282,565).

76.   Regarding **claim 9**, Srivastava is applied as in claim 1. Srivastava fails to disclose *permitting the requested connection; receiving recipient information about the particular e-mail message from the particular domain; comparing the recipient information from the particular domain against said*

configurable policy rules; and blocking receipt of the incoming e-mail message if any of said policy rules would be violated (filtering the message based upon the intended recipient of the message).

77.   However, Shaw discloses that a message may be filtered based upon the recipient of the message. [See Shaw, column 5, lines 5-20.]

78.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava and Shaw for the purpose of filtering out junk email in order not to waste resources. [See Shaw, column 3, lines 43-47.] Srivastava provides motivation for the combination by stating that the mail server is suited for any application that requires highly reliable, scalable, and efficient information transport. [See Srivastava, column 4, lines 21-25.] By this rationale **claim 9** is rejected.

79.   **Claim 15** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Spam! as applied to claim 14 above, and further in view of Shaw.

80.   Regarding **claim 15**, Srivastava and Spam! are applied as in claim 14. Srivastava and Spam! fail to disclose *said maximum aggregate volume is based on total byte count of e-mail received from a given domain over a period of time.*

81.   However, Shaw discloses limiting the size of incoming email messages based on a maximum number of bytes. [See Shaw, column 4, lines 15-22. Shaw limits the size of a single incoming message, but it is Examiner's position that this could be used to filter all messages from a domain equally as well.]

82.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava, Spam! and Shaw for the purpose of filtering out junk email in order not to waste resources. [See Shaw, column 3, lines 43-47.] Srivastava provides motivation for the combination by stating that the mail server is suited for any application that requires highly reliable, scalable, and efficient information transport. [See Srivastava, column 4, lines 21-25.] By this rationale **claim 15** is rejected.

83.   **Claims 11, 44** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Shaw as applied to claim 9 above, and further in view of Sash (U.S. Pub. No. 2003/0167250).

84.   Regarding **claim 11**, Srivastava and Shaw are applied as in claim 9. Srivastava and Shaw fail to disclose *configurable policy rules specify a maximum number of different recipients permitted by a given domain over a period of time.*

85.   However, Sash discloses placing a limit on the number of recipients of a message. [See Sash, page 5, paragraph 0050. Sash discloses forwarding information templates via a content provider, but this limitation is equally applicable to other types of forwarding. Sash also discloses monitoring the forwarding of information templates by tracking email addresses. See Sash, page 5, paragraph 0053.]

86.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava, Shaw, and Sash for the purpose of detecting undesirable activity such as spam. [See Sash, page 5, paragraph 0053.] Shaw gives motivation for the combination by stating that a message can be filtered based on the recipient attribute. [See Shaw, column 5, lines 1-20.] By this rationale **claim 11** is rejected.

87.   Regarding **claim 44**, the limitations of this claim are substantially the same as the limitations in claim 11. Therefore the rationale used to reject claim 11 is also used to reject claim 44. By this rationale **claim 44** is rejected.

88.   **Claim 10** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Spam! as applied to claim 9 above, and further in view of RFC 821.

89.   Regarding **claim 10**, Srivastava and Spam! are applied as in claim 9. Srivastava and Spam! fail to disclose *sender information is transmitted during a "MAIL FROM" phase of SMTP (Simple Mail Transport Protocol) processing.*

90.   However, RFC 821 discloses the source of the message being transmitted (*sender information*). [See RFC 821, The SMTP Procedures.]

91.   It would be obvious for one of ordinary skill in the networking art at the time of the invention to combine the teachings of Srivastava, Spam!, and RFC 821 for the purpose of relaying mail between networks. [See RFC 821, Introduction.] Srivastava gives motivation for the combination of the teachings by stating that a message can be relayed using SMTP. [See Srivastava, column 6, lines 9-21.] By this rationale **claim 10** is rejected.

92.   **Claims 4-5** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and

Rakoshitz et al. (U.S. Patent No. 6,816,903).

93.   Regarding **claim 4**, Srivastava is applied as in claim 1. Srivastava fails to disclose *if none of said*

policy rules would be violated, permitting the requested connection and incrementing a counter indicating

how many connections have been granted to the particular domain (admission control and keeping track

of connections present).

94.   However, Rakoshitz discloses admission control for a network (*if none of said policy rules would*

be violated, permitting the requested connection) and monitoring how much bandwidth is present in the

system (*incrementing a counter indicating how many connections have been granted to the particular*

domain). [Rakoshitz disclose bandwidth control and quality of service for sessions (*connections*) in place

on the system. See Rakoshitz, column 15, lines 1-30.]

95.   It would be obvious to one of ordinary skill in the networking art at the time of the invention to

combine the teachings of Srivastava and Rakoshitz for the purpose of preventing traffic congestion. [See

Rakoshitz, column 14, lines 50-52.] Srivastava gives motivation for the combination by stating that the

service must be highly reliable and efficient. [See Srivastava, column 4, lines 16-25.] By this rationale

claim 4 is rejected.

96.   Regarding **claim 5**, Srivastava and Rakoshitz are applied as in claim 4. Rakoshitz further

discloses applying different admission policies at different time intervals (*after passage of the period of*

time, resetting the counter). [See Rakoshitz, column 15, lines 30-37.] By this rationale **claim 5** is

rejected.

97.   **Claim 8** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Spam! as

applied to claim 6 above, and further in view of Bates et al. (U.S. Patent No. 6,779,021).

98.   Regarding **claim 8**, Srivastava and Spam! are applied as in claim 6. Srivastava and Spam! fail to

disclose *said configurable policy rules specify a maximum number of different senders permitted by a*

given domain over a period of time (detecting a large number of email messages from a domain).

99.   However, Bates discloses detecting email from a specific domain and limiting the amount of email

from said domain. [See Bates, column 9, lines 3-33.]

100.   Bates discloses limiting the amount of email from a domain, and Srivastava and Spam! disclose

filtering based upon the sender of the message. It would be obvious to one of ordinary skill in the

networking art at the time of the invention to combine the teachings of Srivastava, Spam! and Bates for

the purpose of predicting and blocking spam. [See Bates, column 3, lines 46-63.] Spam! gives

motivation for the combination by stating that bulk mailers are able to thwart filters easily. [See Spam!,

page 78.] By this rationale **claim 8** is rejected.

101.   Regarding **claim 43**, the limitations of this claim are substantially the same as the limitations of

claim 8. Therefore the rationale used to reject claim 8 is used to reject claim 43. By this rationale **claim

43** is rejected.

102.   Regarding **claim 45**, Srivastava is applied as in claim 41. Srivastava fails to disclose *determining

a maximum number of e–mail envelopes*.

103.   However, Bates discloses limiting the number of messages from a source address based on a

designated number of recipients. [An e-mail envelope goes to a recipient, so a recipient can be used as a

count for a number of e-mail envelopes.   See Bates, Figure 4A.]

104.   The motivation for combining the teachings in this claim is the same as the motivation in claim 8.

By this rationale **claim 45** is rejected.

105.   Regarding **claim 49**, Srivastava is applied as in claim 41. Srivastava fails to disclose *denying

transmission of a given e-mail message upon violation of policy rules*.

106.   However, Bates discloses a filter that designates spam and prevents transmission of it to a user

based on a set of rules. [See Bates, Figure 4A. See Bates, Figure 4B.]

107.   The motivation for combining the teachings in this claim is the same as the motivation in claim 8.

By this rationale **claim 49** is rejected.

108.   **Claim 10** rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava and Shaw as

applied to claim 9 above, and further in view of RFC 821.

109.   Srivastava and Shaw fail to disclose *recipient information is transmitted during a "RCPT TO"

phase of SMTP (Simple Mail Transport Protocol) processing*.

110.   However, RFC 821 discloses the intended destination user of the message being transmitted

(*recipient information*) during the RCPT TO command. [See RFC 821, The SMTP Procedures.]

111.   It would be obvious for one of ordinary skill in the networking art at the time of the invention to

combine the teachings of Srivastava, Shaw, and RFC 821 for the purpose of relaying mail between

networks. [See RFC 821, Introduction.] Srivastava gives motivation for the combination of the teachings

by stating that a message can be relayed using SMTP. [See Srivastava, column 6, lines 9-21.] By this

rationale **claim 10** is rejected.

112.   Regarding **claim 37**, the limitations of this claim are substantially the same as the limitations of

claim 10. Therefore the rationale used to reject claim 10 is used to reject claim 37. By this rationale

claim 37 is rejected.

113.   Regarding **claim 38**, the limitations of this claim are substantially the same as the limitations of

claim 10 and its claim chain, including claim 9. Therefore the rationale used to reject claim 10 is used to

reject claim 38. By this rationale **claim 38** is rejected.

Response to Arguments

114.   Applicant's arguments filed April 1 2005 have been fully considered but they are not persuasive.

115.   In regard to the claim rejections against claims 2, 3, 5, 8, 11, 14, 15, 29, 42-46 and 53, the

Examiner maintains the indefiniteness rejection against the phrase "a desired period of time". Applicant's

argument that such an amendment would clarify issues that the Examiner has raised is not persuasive.

The Examiner maintains that a "desired period of time" is not clearly stating the metes and bounds of

what is desired in terms of claim coverage. Undue breadth of the claim may be addressed under different

statutory provisions, depending on the reasons for concluding that the claim is too broad. If the claim is

too broad because it does not set forth that which applicants regard as their invention as evidenced by

statements outside of the application as filed, a rejection under 35 U.S.C. 112, second paragraph, would

be appropriate. See MPEP 2173.04.

116.   Applicant's states that "If the Examiner finds that the amendment does not address his concern, it is respectfully requested that he further clarify the nature of the complained-about indefiniteness, particularly in light of the USPTO's own patent database showing that the phrase "a period of time" appears in the claims of several tens of thousands of U.S. Patents issued since 1976." The Examiner refers Applicant to MPEP 2173, which states "The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." MPEP 2173.02 states "If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate. See *Morton Int 'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993)." MPEP 2173.05(b) states "When a term of degree is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree. If it does not, a determination is made as to whether one of ordinary skill in the art, in view of the prior art and the status of the art, would be nevertheless reasonably apprised of the scope of the invention. Even if the specification uses the same term of degree as in the claim, a rejection may be proper if the scope of the term is not understood when read in light of the specification. While, as a general proposition, broadening modifiers are standard tools in claim drafting in order to avoid reliance on the doctrine of equivalents in infringement actions, when the scope of the claim is unclear a rejection under 35 U.S.C. 112, second paragraph, is proper. See *In re Wiggins*, 488 F. 2d 538, 541, 179 USPQ 421, 423 (CCPA 1973). When relative terms are used in claims wherein the improvement over the prior art rests entirely upon size or weight of an element in a combination of elements, the adequacy of the disclosure of a standard is of greater criticality." The Examiner has no basis for determining the claim coverage of "a desired period of time." The device could be enacted as a temporary or as a permanent email filter based on this claim language, which would significantly alter the scope of the invention. A temporary email filter would be enacted over a brief, limited time period. The Examiner believes that the currently amended form of the claim allows the invention to also cover a permanent email filter, as it would be enacted over a "desired period of time". There is no claim clarity on when the filter is

terminated. As the claim currently stands, the user implementing a permanent email filter and then

shutting it down manually at a later date could fulfill a "desired period of time". The language may be

present in other patents, but it is the Examiner's express opinion that in the case of this specific invention,

the use of "a desired period of time" allows for too many alternate interpretations of the invention, thus

creating an unreasonable burden upon one of ordinary skill in the art who would wish to implement said

invention.

117.   Applicant argues that "said second process being connected to a flow control filter providing

filtering on a per-domain basis" is not the same as the Srivastava references. Applicant is referred to the

Abstract of Srivastava, which refers to user level service filtering on a domain level.

118.   Applicant makes arguments that Srivastava does not include an adaptive filter. In response to

applicant's argument that the references fail to show certain features of applicant's invention, it is noted

that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims

are interpreted in light of the specification, limitations from the specification are not read into the claims.

See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

119.   Appilcant argues that Srivastava fails to teach "spawning additional processes". The Examiner

stated in the first office action that Srivastava disclosed an equivalent functionality in the multi-threaded

process used by Srivastava. The Examiner further gave evidence in Srivastava (see paragraph 6 of this

action) that Srivastava's multi-threaded process is an **IMPROVEMENT** over spawning additional

processes, and therefore the spawning of additional processes would not be a novel concept.

120.   Applicant makes arguments that Srivastava does not include an operation for servicing user

requests. In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993).

121.   Applicant makes lengthy arguments about the differences between Srivastava and Applicant's

claimed invention, but rarely addresses the differences between the claim language and Srivastava.

122.   Applicant argues that Applicant's invention is not a spam filter but instead a flow control filter.

The Examiner interprets Applicant's argument to be an admission that the Examiner's art does cover

Applicant's currently claimed invention given the breadth of the claims.

123.   Applicant argues that Applicant's invention is not simply rejecting an e-mail piece based on it

having certain content (e.g. explicit content) that is detected and rejected by a spam filter. The Examiner

interprets Applicant's argument to be an admission that the Examiner's art does cover Applicant's

currently claimed invention given the breadth of the claims, especially *comparing the e-mail message*

body data from the particular domain against said configurable policy rules. This claim language clearly

speaks to a spam filter.

124.   Applicant argues that amended claim 14's language, *said configurable policy rules specify a*

maximum aggregate volume of e-mail permitted by a given domain over a desired period of time, is not

taught by *Spam!*. The Examiner stated in the 103 obviousness rejection that a message limitation can be

applied. The Examiner did not limit this application to a subscriber.

125.   Applicant argues that *Spam!* does not describe continual monitoring of e-mail traffic behavior of a

given domain and applying configurable policy rules. The claim language does not speak to continual

monitoring of e-mail traffic behavior of a given domain. In response to applicant's argument that the

references fail to show certain features of applicant's invention, it is noted that the features upon which

applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

126.   Applicant argues that claim 35 is not "simply processing an individual e-mail piece based on a

particular sender that it is coming from." The Examiner interprets Applicant's argument to be an

admission that the Examiner's art does cover Applicant's currently claimed invention given the breadth of

the claims.

127.   Section D of Applicant remarks refers to absences within Srivastava, *Spam!*, and RFC 821

referring to filtering based upon a **domain**. (Emphasis added by Applicant) The Examiner already has

addressed this argument in paragraph 117 of this office action.

128.   Applicant has chosen to make no arguments in section E of Applicant remarks.

129.   Section F of Applicant remarks refers to absences within Srivastava and Mosberger referring to

filtering based upon a **domain**. (Emphasis added by Applicant) The Examiner already has addressed

this argument in paragraph 117 of this office action. Furthermore, Applicant is apparently alleging that

Srivastava and Mosberger are not combined properly or are non-analogous art. Applicant is referred

back to the rejections against claims 2 and 42 to fulfill Applicant's vague and nebulous argument in this

respect.

130.   In section G, Applicant has merely argued the differences between Applicant's invention and the

Shaw reference without addressing the claim language.

131.   Section H has Applicant arguments against the Shaw reference teaching *said maximum*

aggregate volume is based on total byte count of e-mail... Applicant states that Shaw discloses "limiting

the size of incoming e-mail messages based on a maximum number of bytes". The Examiner stated in

the rejection that it would have been obvious to extend the coverage of Shaw to all incoming e-mail

messages. Applicant again argues the domain argument, which the Examiner addressed in paragraph

117 of this office action.

132.   Section I has Applicant apparently arguing that Sash is inapplicable art because a data object is

not analogous to e-mail. The Examiner already stated the obviousness of a maximum number of

.recipients for a message e.g. information template within the rejection. The **combination** of Srivastava,

Shaw, and Sash yields the obvious equivalent of Applicant's claim limitation. Stating the specific aspects

of Sash on its own merits does not mean that Applicant's claim limitation has not been met. Rather,

looking at the **combination** of Srivastava, Shaw and Sash one of ordinary skill in the art would see the

obviousness of Applicant's claim limitation.

133.   In section J, Applicant has merely argued the differences between Applicant's invention and the

Srivastava, *Spam!*, and RFC 821 references without addressing the claim language.

134.   In section K, Applicant's main argument is against the word domain. Applicant is referred to

paragraph 117 of this office action where the Examiner has previously addressed this argument.

135.   Section L has Applicant arguing that *a maximum number of different senders permitted by a given domain* is not taught by Srivastava, *Spam!*, and Bates. The Examiner has shown that Bates limits the amount of email and Srivastava and *Spam!* filter based on sender. The **combination** of Bates with Srivastava and *Spam!* yields Applicant's claim limitation, and should not be looked at as individual references against the claim limitation.

136.   Section M presents the domain argument, which the Examiner discussed in paragraph 117 of this office action.

Conclusion

137.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.
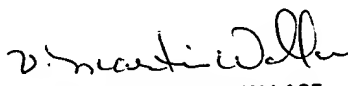
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application

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at 866-217-9197 (toll-free).

VALENCIA MARTIN-WALLACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700